

# **Howard League** for Penal Reform

## **Howard League for Penal Reform's submission to the Joint Committee on the draft Mental Health Bill**

16<sup>th</sup> October 2022

### **1. About the Howard League for Penal Reform**

1.1 Founded in 1866, the Howard League is the oldest penal reform charity in the world. The Howard League has around 10,000 members, including prisoners and their families, lawyers, criminal justice professionals and academics. The Howard League has consultative status with both the United Nations and the Council of Europe. It is an independent charity and accepts no grant funding from the UK government.

1.2 The Howard League works for less crime, safer communities and fewer people in prison. We achieve these objectives through conducting and commissioning research and investigations aimed at revealing underlying problems and discovering new solutions to issues of public concern. The Howard League's objectives and principles underlie and inform the charity's parliamentary work, research, legal and participation work as well as its projects.

1.3 The Howard League's legal team works directly with children and young adults in prison. The Howard League has previously provided secretarial support to the All-Party Parliamentary Group on Women in the Penal System (which is now being handed over to the charity Women in Prison). We have drawn on our legal and policy work in responding to this consultation.

1.4 This submission on the draft Mental Health Bill focuses on transfers from prison to hospital (Clause 31), ending the use of prison and police stations as 'places of safety' (Clause 41), and remand for own protection (Clause 42).

1.5 The Howard League would welcome the opportunity to provide further information about any of the points below.

### **2. Transfers from prison to hospital (Clause 31)**

2.1 The Howard League welcomes the introduction of a new statutory time limit of 28-days for transfer from prisons and other places of detention to secure hospitals to reduce unnecessary delays and deliver swift access to treatment. If successful, this measure would significantly ease a wholly inappropriate burden placed on the prison estate and likely lead to improved safety in penal custody.

2.2 It should be noted however that NHS guidelines already aim for the 28-day time limit and yet the Howard League is aware these guidelines are often not met. For example, the charity was contacted by senior management in one prison earlier this year, where a significant number of prisoners had been held well over this time limit – including men still in the prison 90 days after they had been assessed. The

prison reported that some of these men were deemed unfit for court, and consequently such prisoners on remand can effectively be held past their expected release dates (should they be found guilty) while waiting for a hospital bed.

2.3 Given such concerns, the committee should seek assurances as to how the new statutory time limit will impact on practice – or more significantly, resources – on the ground. People who are diverted to hospital care need beds to go to.

### **3. Ending the use of prison and police stations as ‘places of safety’ (Clause 41) and remand for own protection (Clause 42)**

3.1 The Howard League welcomes both these legislative changes. For the past three years, the Howard League for Penal Reform (and the APPG on Women in the Penal System) has been campaigning against archaic legislation which allows courts to send acutely unwell people to prison as a ‘place of safety’ or for their ‘own protection’.

3.2 As part of this campaigning, the APPG on Women in the Penal System published a briefing in 2020 on remand for own protection (Howard League, 2020) which called for urgent reform of the Bail Act (1976).

3.3 The Ministry of Justice and the Department of Health and Social Care do not collect data on the number of people who are remanded to prison on mental health grounds, as the Howard League has learnt from repeated Freedom of Information requests. However, in oral evidence to the APPG on Women in the Penal System (Howard League, 2022a), the prisons inspectorate revealed that three women’s prisons – a fraction of the overall estate – had identified nearly 70 women who had been remanded over the previous year because they were in mental health crisis. Half of those with recorded outcomes were eventually transferred from the prison to a secure hospital.

3.4 Like the new statutory time limit for transfers from prison to hospital, these amendments will need to be properly resourced to work well. Prisons are not healthy environments and far from helping people in mental health crisis, they will likely compound problems even further.

3.5 The Howard League encourages the committee to push the government for further commitments on ending the practice of remand for own protection in its entirety, and not just on mental health grounds. Some individuals will continue to be remanded for their own protection or welfare due to concerns around exploitation or abuse. For example, in the Howard League’s recent work on children remanded to custody (Howard League, 2022b), the charity spoke to a boy who had been remanded to protect him from his exploiters and then assaulted in prison. The outright repeal of this provision of the Bail Act 1976 would be in line with the changes to ‘places of safety’ in Clause 41 and would finally end this residual and outdated power. The use of prison to secure protection and welfare in any circumstance is wrong in principle and ineffective, even damaging, in practice.

## References

Howard League for Penal Reform (2020). *Prison for own protection: The case for repeal*. Available at <https://howardleague.org/wp-content/uploads/2020/10/APPG-For-their-own-protection-FINAL.pdf>.

Howard League for Penal Reform (2022a) *Inquiry into women's health and wellbeing in prisons*. Available at: <https://howardleague.org/wp-content/uploads/2022/04/APPG-womens-health-and-well-being-FINAL.pdf>.

Howard League for Penal Reform (2022b) *Children on remand: Voices and lessons*. Available at: <https://howardleague.org/wp-content/uploads/2022/05/Children-on-remand-voices-lessons.pdf/>.